

1 TRINETTE G. KENT (State Bar No. 025180)
2 11811 North Tatum Blvd., Suite 3031
3 Phoenix, AZ 85028
4 Telephone: (480) 247-9644
5 Facsimile: (480) 717-4781
E-mail: tkent@lemb erglaw.com

6 *Of Counsel to*
7 Lemberg & Associates LLC
A Connecticut Law Firm
8 1100 Summer Street
9 Stamford, CT 06905
Telephone: (203) 653-2250
10 Facsimile: (203) 653-3424

11 Attorneys for Plaintiff,
12 Douglas Baker

13

14

15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA
17

18
19 Douglas Baker, Case No.:
20 Plaintiff,
21 vs.
22 Caribbean Cruise Line, Inc. ; and DOES
23 1-10, inclusive,
24 Defendants.

COMPLAINT
JURY TRIAL DEMANDED

25

26

27

28

1 For this Complaint, the Plaintiff, Douglas Baker, by undersigned counsel, states
2 as follows:

3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
7

8 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.

9 3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that
10 Defendants transact business here, Plaintiff resides in this judicial district, and a
11 substantial portion of the acts giving rise to this action occurred here.
12

13

14 **PARTIES**

15 4. The Plaintiff, Douglas Baker (hereafter "Plaintiff"), is an adult individual
16 residing at 1217 Ranch Road, Taylor, Arizona 85939, and is a "person" as defined by
17 47 U.S.C. § 153(10).
18

19 5. The Defendant, Caribbean Cruise Line, Inc. (hereafter "Caribbean"), is a
20 company with an address of 2419 East Commercial Boulevard, Suite 100, Ft.
21 Lauderdale, Florida 33308, and is a "person" as defined by 47 U.S.C. § 153(10).
22

23 6. Does 1-10 (the "Collectors") are individual employees and/or agents employed
24 by Caribbean and whose identities are currently unknown to the Plaintiff. One or
25 more of the Agents may be joined as parties once their identities are disclosed through
26 discovery.
27

7. Caribbean at all times acted by and through one or more of the Agents.

FACTS

8. Within the last four years, Caribbean placed calls to Plaintiff's cellular telephone at XXX-XXX-5232.

9. At all times referenced herein, Caribbean placed calls to Plaintiff's cellular telephone in an attempt to solicit its products and services to Plaintiff.

10. Caribbean placed calls to Plaintiff's cellular telephone by using an automated telephone dialer system ("ATDS") and/or by using an artificial or prerecorded voice.

11. When Plaintiff answered the calls from Caribbean, he heard a prerecorded message delivered by Caribbean

12 Plaintiff never provided his cellular telephone number to Caribbean

13. Plaintiff never provided his consent to Caribbean to be contacted on his cellular telephone.

14. Plaintiff has no prior business relations with Caribbean and never requested by
an agreement or otherwise that Caribbean contact him.

15. The telephone number called by Caribbean was assigned to a cellular telephone
in [REDACTED] Plaintiff's case, [REDACTED] § 11, [REDACTED] 47 U.S.C. §

16. The calls from Caribbean to Plaintiff were not placed for “emergency purposes”

1 **COUNT I**

2 **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT -**

3

4 **47 U.S.C. § 227, et seq.**

5 17. The Plaintiff incorporates by reference all of the above paragraphs of this
6 Complaint as though fully stated herein.

7

8 18. Without prior consent, the Defendants contacted the Plaintiff by means of
9 automatic telephone calls or prerecorded messages at a cellular telephone or pager in
10 violation of 47 U.S.C. § 227(b)(1)(A)(iii).

11

12 19. Caribbean placed calls to Plaintiff's cellular telephone using a prerecorded
13 voice, knowing that it lacked consent to call his number. As such, each call placed to
14 Plaintiff was made in knowing and/or willful violation of the TCPA and is subject to
15 treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

16

17 20. As a result of each call made in negligent violation of the TCPA, Plaintiff is
18 entitled to an award of \$500.00 in statutory damages for each call in violation of the
19 TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20

21 21. As a result of each call made in knowing and/or willful violation of the TCPA,
22 Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for
23 each call pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

24

25

26

27

28

COUNT II

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

22. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

24. Arizona further recognizes the Plaintiff's right to be free from invasions of privacy, thus Defendant violated Arizona state law.

25. The Defendant intentionally intruded upon Plaintiff's right to privacy by continually harassing the Plaintiff the above referenced telephone calls.

26. The telephone calls made by Defendants to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy

27. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person

28. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from Defendants

1 29. All acts of Defendants and its agents were committed with malice, intent,
2 wantonness, and recklessness, and as such, Defendants are subject to punitive
3 damages.
4

5 **PRAAYER FOR RELIEF**
6

7 WHEREFORE, the Plaintiff prays that judgment be entered against the
8 Defendants:

- 9 A. Statutory damages of \$500.00 for each violation determined to be
10 negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
11
12 B. Treble damages for each violation determined to be willful and/or
13 knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
14
15 C. Actual damages from the Defendants for all damages, including
16 intentional, reckless, and/or negligent invasions of privacy in an amount
17 to be determined at trial;
18
19 D. Punitive damages; and
20
21 E. Such other and further relief as may be just and proper.

22 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
23
24
25
26
27
28

1 DATED: October 10, 2013

LEMBERG & ASSOCIATES, LLC

2 By: /s/ Trinette G. Kent
3 Trinette G. Kent

4 Attorney for Plaintiff,
5 Douglas Baker

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28